

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

**FILED**  
UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO  
**MAY 19 2004**

JOHN P. SHERIDAN,

Applicant,

**CLERK**

v.

No. CIV-04-0417 WJ/KBM

STATE OF NEW MEXICO MOTOR  
VEHICLE DEPARTMENT,  
SOCORRO DISTRICT COURTS,  
DOES 1 TO 200,

Respondents.

MEMORANDUM OPINION AND ORDER

This matter is before the Court, *sua sponte* under Rule 4 Governing Section 2254 Cases, for preliminary consideration of Applicant's application for writ of habeas corpus under 28 U.S.C. § 2254. For the reasons below, the application will be dismissed.

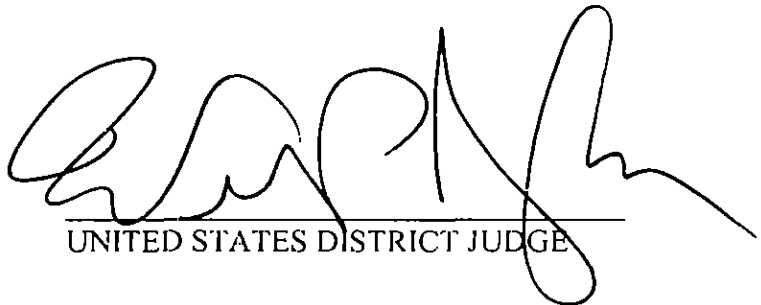
According to attachments to the application, Applicant seeks relief from a state agency's administrative revocation of his New Mexico driver's license and the state district court's affirmance of revocation on appeal. The attachments also describe an alleged assault by a sheriff's officer. The application makes no allegation that Applicant is incarcerated or in constructive custody. 28 U.S.C. 2254(a). "[S]uspension or revocation of his driver's license does not render [Applicant] 'in custody' for the purposes of § 2254. *Jones v. Grant*, No. 00-2314, 2001 WL 201974, at \*\*1 (10th Cir. March 1, 2001). The Court, therefore, does not have subject matter jurisdiction of the application, *Oyler v. Allenbrand*, 23 F.3d 292, 293 (10th Cir. 1994), and Applicant is not entitled to habeas corpus relief. Rule 4(b). The application will be dismissed. Applicant may assert his claims of civil rights violations

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in a complaint under 42 U.S.C. § 1983.

IT IS THEREFORE ORDERED that Applicant's motion for leave to proceed in forma pauperis (Doc. #2) is GRANTED;

IT IS FURTHER ORDERED that Applicant's application for writ of habeas corpus under 28 U.S.C. § 2254 is DISMISSED without prejudice; and, pursuant to Fed.R.Civ.P. 58(a)(2)(A)(iii), *United States v. Sam*, No. 02-2307, 2003 WL 21702490, at \*1 (10th Cir. July 23, 2003), judgment will enter in accordance with this order.



UNITED STATES DISTRICT JUDGE